

This letter describes how Use Tax is incurred on explosives used by a company that provides a "shot service." See 86 Ill. Adm. Code 150.101. (This is a GIL).

July 17, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 7, 2000. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am writing to receive some clarification on taxability of a product and service my company provides. COMPANY, is a manufacturer and retailer of explosives and explosive accessories. On occasion my company has an opportunity to participate in what is called a 'shot service'. This shot service may consist of drilling holes in the ground, loading explosives into those holes, and then detonating those explosives. Depending on the specifics of each contract and customer, we may handle this service in a different manner. I will outline each of the different scenarios and would like a determination on how to tax each situation.

1. At some locations, we will bring the product onto the location at the time of shot service and draw from those inventories. We will bill the customer for a shot service only. The product may be listed on the blasting ticket, but only quantities used, not price. We may have a contract with the customer stating we are providing only a short service. There is no mention of product in this contract, other than what types of product will be used.

2. At some locations, we deliver explosives in bulk for storage on the blasting site, and draw from those inventories when we do the shot. We will bill the customer for the delivered explosives, and later bill for the shot service upon completion of the service. We may have a contract with this customer that states that we are providing only a shot service. There is no mention of product in this contract, other than what types of product will be used.

3. At some locations, we provide a shot service only. We bill the customer for shot service only.

The explosives may consist of Ammonium Nitrate Prill or Emulsion. The blasting accessories are detonators, blasting caps and wiring. As a manufacturer, we purchase raw materials tax exempt. We then sell to

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our distributors on a resale certificate. These distributors are the ones performing these shot services.

By the end of 2000, our distributors will be merging into the parent company COMPANY, and all sales tax issues will be handled centrally at headquarters. For this reason, I need understanding of the tax liability of this service. I would appreciate any clarification you can provide. If you have questions or need further information, please contact me at the number below.

Illinois Retailers' Occupation Tax and Service Occupation Tax do not apply to sales of service that do not involve the transfer of tangible personal property to customers. Based upon the description in your letter of providing "shot service" in scenario numbers one and three, it appears that no tangible personal property will be transferred to your customers. If no tangible personal property is transferred to your customers, then no Retailers' Occupation Tax or Service Occupation Tax liability will be incurred on the charges for the shot service.

However, your company will be considered the taxable user of any tangible personal property it uses in providing the shot service. Your company would incur Illinois Use Tax liability on the cost price of the explosives, blasting caps, detonators, and all other tangible personal property that is used or consumed in this State. See the enclosed copy of 86 Ill. Adm. Code 150.101. Please note that if the customer provides the explosives (such as possible in scenario number three), then the customer will incur Illinois Use Tax on the explosives used in this State.

It does not appear that the same situation occurs in scenario number two. Your company delivers and charges for the explosives separately from the shot service. This would be a retail sale of explosives and would be subject to Retailers' Occupation Tax liability on the selling price of the explosives. See the enclosed copy of 86 Ill. Adm. Code 130.101.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.